



MEMORANDUM

TO Interested Parties
FROM Adzi Vokhiwa, Federal Affairs Director, Giffords
DATE August 26, 2022
RE Implementing the Bipartisan Safer Communities Act

On June 25, 2022, President Biden signed the Bipartisan Safer Communities Act (BSCA) into law—marking the first successful package of federal gun safety legislation in nearly 30 years. The law represents an important first step towards addressing a public health crisis that kills more than 41,000 Americans each year.

But the law’s enactment is just the beginning. **While the BSCA offers the prospect of reducing gun violence, it will only be successful in doing so if it is fully and faithfully implemented by cities, states, and the federal government.** New resources made available by the law must be directed towards evidence-informed interventions. New firearm safety provisions must be clarified through guidance and regulation. And new background check requirements must be enforced through oversight and technical assistance.

This work could not be more urgent. Our nation’s gun homicide rate rose by [35%](#) in 2020, and more than 90,000 Americans have lost their lives to gun violence in the past two years alone. This violence has a disproportionate impact on underserved communities of color in American cities. For example, while Black men make up 52% of all gun homicide victims in the US, they comprise less than 6% of the population. In the face of this violence, it is critical that the policymakers responsible for implementing and enforcing the BSCA are well supported in their efforts.

In this memo, [Giffords](#), the gun violence prevention organization led by former Congresswoman Gabrielle Giffords, offers implementation recommendations for federal departments and sub-agencies with jurisdiction over critical elements of the BSCA, including the US Department of Justice (DOJ), the US Department of Health and Human Services (HHS), and the US Department of Education (ED). Each section provides an overview of relevant BSCA provisions and includes clear and tangible steps toward implementation for each agency.

Many thought Congress would never pass a bipartisan gun safety bill. But the hard work and courage of countless legislators and advocates proved them wrong. Because of that work, the Biden administration now has an historic opportunity to save lives. The extent to which they take advantage of that opportunity will likely be measured by the focus and resources they devote to the implementation blueprint laid out below.

Bureau of Alcohol, Tobacco, Firearms and Explosives

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is the primary agency charged with enforcing our nation's gun laws. The BSCA strengthens these laws in several ways. In particular, the new law:

- **Prohibits gun purchases and possession by someone convicted of a misdemeanor crime of domestic violence against a victim with whom they have had a “current or recent former dating relationship” during the previous five years.** This law also adds a definition of “dating relationship” with several factors to aid in the determination.¹
- **Sets out a new process for background checks for people under age 21,** so that if a state juvenile justice or mental health repository or local law enforcement identifies a potentially disqualifying record for the person within three business days after the check is initiated, the system then has 10 business days to determine whether the person is disqualified from possessing a gun, rather than the usual three business days. The licensed gun dealer, importer, or manufacturer may not complete the sale until the system has determined that the person is not disqualified or 10 business days have passed.²
- **Makes minor changes to the language that determines which gun sellers are required to obtain a federal gun dealer’s license.** These changes alter the definitions of the terms “engaged in the business” and create a definition of “predominantly one of obtaining pecuniary gain.”
- **Authorizes licensed gun dealers, importers, and manufacturers to voluntarily conduct a background check on a current or prospective employee.**³
- **Allows licensed importers, manufacturers, and dealers access to records of stolen firearms maintained by the National Crime Information Center (NCIC)** so that they may verify whether used firearms offered for sale to them have been stolen.⁴

Implementation Recommendations

In implementing the BSCA, Giffords recommends ATF take the following actions:

- **Issue new rules that clarify the definition of “dating relationship.”** ATF should ensure that the new prohibition for abusive dating partners encompasses dating relationships as represented by the lived experiences of survivors of dating violence, as

¹ BSCA, 136 Stat. 1332.

² BSCA, 136 Stat. 1322-1324

³ BSCA, 136 Stat. 1330 (discussing ability to voluntarily conduct employment background check).

⁴ BSCA, 136 Stat. 1331.

described by advocates for those survivors. The law defines “dating relationship” as “a relationship between individuals who have or have recently had a continuing serious relationship of a romantic or intimate nature” and provides that the length and nature of the relationship as well as the frequency and type of interaction between the individuals involved are relevant to a determination whether a dating relationship exists. Dating partner violence may continue long after a survivor says the relationship is over because the perpetrator is unable to accept the end of the relationship. ATF’s new rule should recognize the seriousness of such a relationship, and the danger posed by a gun in the hands of the perpetrator. For these reasons, we urge ATF to take into account the nature of the relationship in its cultural context and not to rely too heavily on numerical requirements for the relationship.

- **Issue new rules that clarify who qualifies as a firearms dealer.** The BSCA language provides an opportunity for ATF to issue a regulation stating that any person who sells five guns or more in any 12-month period is “in the business” of selling firearms. More information on this proposal is available [here](#).
- **Issue new rules to update dealers’ responsibilities when a buyer is under age 21,** including to wait 10 business days before transferring the gun if the dealer receives a notice about a potentially disqualifying record.
- **Facilitate employee background checks.** The new law authorizes but does not require firearms dealers, importers, and manufacturers to conduct these checks, provided they fulfill notice and written consent requirements. ATF should establish a form for this notice and consent, inform these businesses about the benefits of conducting such checks, and work closely with the FBI to ensure that these checks can be conducted easily. ATF should encourage licensed gun dealers, importers, and manufacturers to conduct these checks on any current or prospective employee, and make clear that these businesses have a responsibility to ensure that a person who fails such a background check should not be allowed access to firearms. The regulation should also make clear that the three-business day rule does not apply to these checks, i.e. a licensed gun dealer, importer, or manufacturer who initiates a check on an employee should not assume that the person is cleared to possess firearms if the background check approves the person within three business days.
- **Put licensed gun dealers, importers, and manufacturers on notice about the new law,** including their responsibilities with regards to employee background checks and buyers under age 21, and their ability to access information about stolen firearms. In the past, ATF has communicated with these businesses through open letters, newsletters, and other guidance documents. Given the large-scale impact of the new law’s requirements on these businesses’ practices, ATF must take an active role in educating them about their responsibilities.

- **Ensure that its inspectors are prepared to help enforce the law.** ATF provides oversight for licensed gun dealers, importers, and manufacturers largely through its program of inspections of these businesses. ATF's industry operations investigators (IOIs) conduct inspections to determine whether these businesses are complying with the laws. Now that the BSCA has become law, ATF must ensure that IOIs receive training regarding the BSCA's provisions. In particular, IOIs must now ensure that gun dealers, importers, and manufacturers are not proceeding with sales to buyers who are under age 21, for whom a potentially disqualifying record has been found, before ten business days have passed or the system has determined that the person is not disqualified. If a business willfully refuses to comply with this new law, ATF may revoke the business's license.
- **Help gun dealers, importers, and manufacturers understand how the new law works in conjunction with state firearms laws.** Many states have their own laws regarding abusive dating partners, gun buyers under the age of 21, employee background checks, and stolen firearms. ATF should conduct a separate analysis for each state and inform gun businesses in that state about the laws that apply there.

Federal Bureau of Investigation

The Federal Bureau of Investigation (FBI) runs the National Instant Criminal Background Check System (NICS), which is used to run background checks on gun purchasers. The BSCA significantly alters the way that System must operate. In particular, the BSCA:

- **Sets out a new process for background checks for people under age 21.**⁵ The law requires the background check system (which is administered by the FBI in most states, but state or local officials in other "point of contact" states) to take the additional step of contacting state juvenile justice and mental health repositories and local law enforcement whenever a person under age 21 tries to buy a gun. If these repositories or local law enforcement then identify a potentially disqualifying record for the person within three business days, the system then has 10 business days to determine whether the person is disqualified from possessing a gun, as described above. This procedure differs dramatically from the procedure in existence before the enactment of the BSCA, which allowed only three business days for the background check to be complicated. The old procedure remains in place for gun buyers who are age 21 or older, but the new procedure must now be used whenever a gun buyer is under age 21.
- **Authorizes access to NICS for a licensed gun dealer, importer, or manufacturer who wishes to voluntarily conduct a background check on a current or prospective employee.**⁶ The BSCA explicitly requires the Department of Justice to issue new regulations regarding these background checks within 90 days of the BSCA's

⁵ BSCA, 136 Stat. 1322-1324

⁶ BSCA, 136 Stat. 1330 (discussing ability to voluntarily conduct employment background check).

enactment, which occurred on June 25, 2022.⁷ Since the FBI administers NICS, the FBI regulations on this topic at 28 C.F.R. Part 25 should be amended.

- **Allows firearms importers, manufacturers, and dealers access to records of stolen firearms so they may verify whether used firearms offered for sale to them have been stolen.** Specifically, the law requires the FBI to issue new regulations allowing licensed importer, manufacturer, or dealer access to records of stolen firearms maintained by the National Crime Information Center (NCIC) so that they may verify whether used firearms offered for sale to them have been stolen. These regulations must also be issued within 90 days of the BSCA's enactment.⁸

Implementation Recommendations

In implementing the BSCA, Giffords recommends the FBI take the following actions:

- **Issue new rules for NICS for background checks for people under age 21.** The FBI's regulations regarding NICS delineate the databases that are searched when a licensed gun dealer, importer, or manufacturer contacts the system to conduct a background check on a gun purchaser. These regulations will have to be amended to ensure that additional steps are completed for buyers under age 21.
- **Train federal, state, and local officials who operate NICS** to properly contact the appropriate state juvenile justice and mental health repositories and local law enforcement whenever a person under age 21 tries to buy a gun.
- **Identify appropriate contacts within state juvenile justice and mental health repositories** so that they can provide any relevant records that may exist about a gun buyer who is under age 21 whenever a background check is conducted. Officials within NICS must conduct outreach to these officials, build relationships with them, and train them in order to make these requests worthwhile and ensure that potentially disqualifying records are made available to NICS. These state and local officials are in no way required to cooperate with these requests, but the BSCA did appropriate \$200 million in additional grant funding to be distributed by the Bureau of Justice Statistics for use by state and local governments in upgrading criminal and mental health records for NICS.⁹
- **Create electronic pathways regarding the new procedure for background checks whenever a person under age 21 tries to buy a gun.** These pathways could be used for NICS requests to state juvenile justice and mental health repositories and local law enforcement for potentially disqualifying records and for the state and local responses to these requests.

⁷ BSCA, 136 Stat. 1331.

⁸ BSCA, 136 Stat. 1331.

⁹ BSCA, 136 Stat. 1339.

- **Develop policies and practices to accept disqualifying juvenile records from states** at the time of a disqualifying event (i.e., when the person is convicted of a crime or committed to a mental institution) rather than waiting for these individuals to attempt to buy a gun. Before the BSCA, it was not clear whether these records were disqualifying, so state and local authorities may not have collected them in a centralized repository and/or submitted them to NICS. The BSCA makes clear that these records disqualify these individuals from purchasing guns (with an exception for mental health adjudications or commitments of a person younger than age 16). As a result, officials within the FBI must be ready to accept the appropriate records and ensure that they are accessible through NICS.
- **Monitor and track the process and outcomes of these background checks in order to ensure that the provisions are effectively and equitably implemented throughout the country.** Each state and local jurisdiction may utilize different systems for maintaining and accessing criminal history and mental health records and may respond differently to these requests. Officials within NICS should ensure that local differences do not create a situation where some communities are left without the training or resources necessary to properly respond to these requests for juvenile records.
- **Develop new policies and practices and train the federal, state, and local officials who operate NICS to properly evaluate criminal history records that involve misdemeanor convictions for dating partner violence.** These new policies and practices may partially rely on the work of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) described above.
- **Create a new process to ensure that records of convictions for dating partner abuse are removed from NICS or expire after five years or otherwise no longer prevent gun purchases by these individuals.** The BSCA only prohibits gun purchases and possession by people convicted of violent misdemeanors against certain dating partners for five years following the conviction. Implementing this five-year prohibition may also involve new training for the federal, state, and local officials who administer background checks and may encounter older records.
- **Issue a new regulation authorizing access to NICS for employee background checks.** The BSCA requires the FBI to issue such a regulation within 90 days of the law's enactment.
- **Issue a new regulation authorizing access to records regarding stolen firearms.** These records are maintained by the National Crime Information Center. The BSCA requires the FBI to issue a regulation allowing licensed gun dealers, importers, and manufacturers access to these records within 90 days of the law's enactment. Notably, the law does not specify how a licensed gun dealer, importer, or manufacturer who

determines that a firearm offered for sale to them has been stolen should respond to this information, and the law seems to allow unlimited dissemination of this information by the business.¹⁰

- **Update the appropriate software, create new electronic pathways, and remove any obstacles within NICS** so that the licensed gun dealers, importers, and manufacturers can have access to NICS for employee background checks and to NCIC for information about stolen firearms.

Department of Justice, Office of the Deputy Attorney General

The BSCA creates several new federal criminal offenses and penalties related to firearms trafficking which the Office of the Deputy Attorney General (ODAG) has a critical role to play in implementing. In particular, the BSCA:

- **Makes straw purchasing a federal crime.** The BSCA makes it unlawful for any person to “knowingly purchase, or conspire to purchase, any firearm...for, on behalf of, or at the request or demand of any other person, knowing or having reasonable cause to believe that such other person” is prohibited under federal law from possessing a firearm.¹¹ The maximum prison sentence under this provision is 15 years.
- **Makes firearms trafficking a federal crime.** The BSCA makes it unlawful for any person to “ship, transport, transfer, cause to be transported, or otherwise dispose of any firearm to another person...if such person knows or has reasonable cause to believe that the use, carrying, or possession of a firearm by the recipient would constitute a felony” or to “receive from another person any firearm...if the recipient knows or has reasonable cause to believe that such receipt would constitute a felony.”¹² The maximum prison sentence under this provision is 15 years.
- **Directs the United States Sentencing Commission to amend its guidelines and policy statements.** In particular the BSCA instructs the Sentencing Commission to “ensure that persons convicted of an offense [under the new provisions] are subject to increased penalties in comparison to those currently provided by the guidelines and policy statements for such straw purchasing and trafficking of firearms offenses.”¹³

Implementation Recommendations

In implementing the BSCA, Giffords recommends ODAG take the following actions:

¹⁰ See 28 U.S. Code § 534(b).

¹¹ BSCA, 136 Stat. 1327.

¹² BSCA, 136 Stat. 1327.

¹³ BSCA, 136 Stat. 1328.

- **Update the Justice Manual and other guidance for US Attorneys regarding prosecuting straw purchasers and gun traffickers.**
- **Issue new charging memos or policy memoranda regarding prosecuting straw purchasers and gun traffickers, including corporate gun traffickers.** The ODAG should support the use of prosecutorial discretion to ensure that law enforcement focuses on the greatest sources of illegal crime guns.
- **Convene US Attorneys and federal law enforcement officials, along with community groups, to build a common understanding about the importance of enforcing the new laws against straw purchasers and gun traffickers.** These officials should solicit input from diverse stakeholders, establish recommendations and best practices, and focus on the selection of the best approaches to those who violate these laws. Possible approaches include prosecutions, diversion programs, and intervention programs.
- **Call on the Sentencing Commission to amend its guidelines and policy statements to ensure that people convicted of straw purchasing and gun trafficking crimes are subject to increased penalties.** In accordance with the BSCA, the Commission must amend the Guidelines so that straw purchasers without significant criminal histories receive “sentences that are sufficient to deter participation in such activities and reflect the defendant’s role and culpability, and any coercion, domestic violence survivor history, or other mitigating factors.” The Commission must also amend its guidelines and policy statements so that a person convicted of these new crimes, “who is affiliated with a gang, cartel, organized crime ring, or other such enterprise” is subject to “higher penalties than an otherwise unaffiliated individual.” In amending the Guidelines, the Sentencing Commission has an opportunity to help ensure that these penalties do not have unduly negative effects on the less culpable individuals prosecuted under these provisions, such as individuals who have straw purchased firearms due to coercion. The Commission must also be careful to avoid disproportionate effects on people of color and other marginalized groups.

Department of Justice, Office of Justice Programs

The BSCA provides \$250 million, over five years, to fund community violence intervention (CVI) and prevention programs. CVI programming is designed to reduce gun violence at the local level, often involving street outreach workers who can defuse volatile situations, and wraparound supports such as cognitive behavioral therapy and work programs. These programs reach people who are most at risk of gun violence involvement. The Office of Justice Programs (OJP) will need to decide how and when to distribute the new CVI funding to organizations and localities across the country. These efforts have shown immense [promise](#) in other cities around the country, reducing the rate of gun violence among participants.

Implementation Recommendations

In implementing the BSCA, Giffords recommends OJP take the following action:

- **Distribute this funding in accordance with the [Community Based Violence Intervention and Prevention Initiative \(CVIPI\)](#).** These funds should support evidence-informed community-centered programs in cities with highest levels of gun violence.
- **Allow this funding to be used to support state-wide community violence intervention and prevention offices.** Several states—including California, Maryland, Massachusetts, New Jersey, and New York—have named specific state agencies as administrators of state-level CVI efforts. Similarly, Washington state launched its state-wide Office of Firearm Safety and Violence Prevention in March 2021. These offices can provide critical coordination and support to many of the organized CVI efforts within the states.
- **Allow this funding to be used to build state-wide community violence intervention and prevention coalitions.** Federal funding already supports state-wide coalitions that address domestic violence.¹⁴ Similar coalitions are beginning to form to address community violence.¹⁵ A portion of OJP’s CVIPI funding should be used to help support the development of these coalitions, which are essential to the continued advancement of the field of community violence intervention and prevention.

Department of Justice, Bureau of Justice Assistance

The BSCA provides \$750 million, over five years, to support a new area of Byrne JAG funding, administered by the Bureau of Justice Assistance (BJA). Specifically, the BSCA provides that Byrne JAG funding may be used to implement “state crisis intervention court proceedings and related programs or initiatives,” including mental health courts, drug courts, veterans courts, and extreme risk protection order (ERPO) programs.¹⁶

To be eligible for this funding, ERPO programs must include: (1) Pre- and post-deprivation due process rights, including notice, the right to an in-person hearing, an unbiased adjudicator, the right to know opposing evidence, the right to present evidence, and the right to confront adverse witnesses; (2) The right to counsel at no expense to the government; (3) Pre- and post-deprivation heightened evidentiary standards and proof; and (4) Penalties for abuse of the program.

¹⁴ See Office of Victims of Crime, State and Territorial Sexual Assault and Domestic Violence Coalitions Program, <https://www.justice.gov/ovw/grant-programs> (provides support “for the purposes of coordinating victim services activities and collaborating and coordinating with federal, state, and local entities engaged in addressing violence against women”).

¹⁵ See, e.g., Maryland Violence Prevention Coalition, <https://mdpgv.org/coalition/#:~:text=Maryland%20Violence%20Prevention%20Coalition%20is,conditions%20in%20underserved%20Maryland%20communities.>

¹⁶ BSCA, 136 Stat. 1325.

Implementation Recommendations

In implementing the BSCA, Giffords recommends BJA take the following actions:

- **Issue guidance to help states determine whether their ERPO laws meet the BSCA’s requirements, such that states can use Byrne JAG funding to implement these laws.** Several of the BSCA’s ERPO law requirements are unclear and merit further explanation. For example, what types of “penalties for abuse” of an ERPO program must be available for a state’s ERPO law to be eligible for BSCA funding? BJA should clarify these requirements, and when appropriate, make determinations about whether a particular state’s law is eligible for funding.
- **Issue a new solicitation for Byrne JAG funding made available to support the implementation of state ERPO laws.** BJA should consider focusing funding on ERPO implementation efforts outlined in President Biden FY22 budget proposal, including: (1) Increase the geographic scope of these efforts; (2) Increase hours of operation (e.g., from regular court hours to 24/7 coverage); (3) Support efforts to publicize and train relevant stakeholder groups and reporters; and (4) Develop improved evidence-based risk assessment methods.¹⁷ BJA should also work closely with state administrators to ensure that they are aware of this new purpose area and how it might apply in their states.
- **Provide training and technical assistance to states and local governments regarding ERPO laws and other state crisis intervention programs.** This technical assistance may include offering best practices on crafting ERPO laws, guidance on collecting data, and providing education to courts and organizations on the ground.
- **Provide guidance to states about best practices in implementing their ERPO laws.** In order for ERPOs to be effectively implemented, states should:
 - Train law enforcement officers and those who work closely with law enforcement (such as social workers) about how and when to seek ERPOs and availability of additional remedies that may provide more protection when there is abuse or harassment of specific individuals, such as domestic violence restraining or protective orders, and referrals for psychological evaluations/assessments when mental health is a concern;
 - Train judges, court personnel, health care and legal professionals, law enforcement officers, advocates, and community leaders to more accurately identify individuals whose access to firearms poses a danger, and to identify and communicate to law enforcement officers and family members when an ERPO might be appropriate;

¹⁷ See U.S. Department of Justice, Office of Justice Programs, “FY 2022 Performance Budget”, <https://www.justice.gov/jmd/page/file/1399261/download>.

- Develop and implement law enforcement and court protocols, forms, and orders so that law enforcement agencies and the public may seek and obtain ERPOs in a safe, equitable, and effective manner;
- Provide law enforcement agencies and the courts the resources necessary for the personnel, training, technical assistance, and data collection;
- Raise public awareness and understanding of ERPOs and other remedies to reduce gun violence risks or provide appropriate protection for victims, including by funding community based organizations for public awareness campaigns and the training of community members in diverse communities;
- Develop websites, brochures, guidance and other materials so that information about ERPOs and other remedies is widely available, translate these materials into multiple languages, and ensure that these materials are widely disseminated;
- Train law enforcement officers about how to safely remove and store firearms when an ERPO is issued;
- Provide facilities for the safe storage of firearms;
- Ensure that procedures exist to accept firearms that are voluntarily relinquished and that information is available for the person subject to an ERPO about how to comply locally;
- Hold convenings, meetings, and discussions to share best practices and ensure a mutual understanding of responsibilities and open lines of communication among stakeholders, including law enforcement agencies, the courts, and the public;
- Train law enforcement officers and court personnel to ensure that people subject to ERPOs understand them;
- Build trust between the police and the community;
- Train prosecuting agencies and public defenders so that ERPOs can be effectively and equitably enforced;
- Ensure that ERPOs are properly reported to the proper background check databases; and
- Collect data about ERPOs and monitor the data for signs that ERPOs are being over- or under-utilized in a community.

Department of Justice, Community Oriented Policing Services Office

The BSCA appropriates \$100 million, over five years, for competitive grants to be administered by the Community Oriented Policing Services (COPS) Office for purposes authorized under the STOP School Violence Act of 2018. This funding is to be made available in equal amounts and remain available until expended, from FY2022 to FY2026. The program seeks to improve school security by providing students and teachers with the tools they need to recognize, respond quickly to, and prevent acts of violence. This funding may also be used for placing and using metal detectors and other deterrent measures, acquiring and installing emergency notification technology, and any other measures to improve school security. Both the Bureau of Justice Assistance (BJA) and the COPS Office administer grants under the program.

Implementation Recommendations

In implementing the BSCA, Giffords recommends the COPS Office take the following actions:

- **Distribute BSCA’s STOP School Violence Act funding to evidence-informed intervention and prevention programs.** We recommend the COPS Office prioritize applications from areas with disproportionately high rates of gun violence and use this new funding to support programs that will actually keep students safe, such as school-based community violence intervention and prevention programs and support for students in crisis and/or experiencing behavioral health conditions. Traditionally, school safety funding has been used to harden school buildings by purchasing equipment like metal detectors and employing armed security guards. But the use of metal detectors in schools has been found to be [racially discriminatory](#); the [National Association of School Psychologists](#) has argued that armed guards actually increase student fear; and the presence of armed guards, in the form of school resource officers, have been found to [increase the use of suspensions](#), expulsions, police referrals, and student arrests, especially for Black students. And while research is limited, no compelling evidence currently exists showing [metal detectors](#) or armed [security guards](#) actually make schools safer.
- **Make this funding available for programs that engage school communities to reduce dangerous access to firearms.** For example, two states, California and New York, specifically allow certain school personnel to seek ERPOs when they are aware that an individual poses a risk of violence, so that guns can be removed from that person. In other states that have ERPO laws, school personnel can work with law enforcement to seek these orders when someone poses a risk of firearms violence against a school. Similarly, schools may work with law enforcement to help educate the school community about the need to safely store firearms and the impact firearm storage practices can have on the safety of the school community.

Department of Health and Human Services, Substance Abuse and Mental Health Services Administration

The BSCA provides \$800 million, over four years, for existing grant programs administered by the Substance Abuse and Mental Health Services Administration (SAMHSA). In particular, the BSCA:

- **Appropriates \$40 million over four years for the [National Child Traumatic Stress Network \(NCTSN\)](#).** NCTSN works to infuse trauma-informed care into systems across the country with specific focus on the needs of children, adolescents, and families following traumatic events.
- **Appropriates \$240 million over four years for activities and services under Project AWARE, with \$28M to be used for grants to support trauma care in schools.** Project

AWARE is designed to identify children and youth in need of mental health services in their school. Project AWARE is comprised of two components:

- [SEA grants](#) are awarded to State Education Agencies to promote comprehensive, coordinated, and integrated state efforts to make schools safer and increase access to mental health services, and include a focus on rural communities which often have limited access to mental health services.
- [ReCAST grants](#) assist high-risk youth and families and promote resilience and equity in communities that have recently faced civil unrest, including police violence, through implementation of evidence-based, violence prevention and community youth engagement programs, as well as linkages to trauma-informed behavioral health services. ReCAST aims to develop culturally responsive approaches with community-based partners to address the mental health services needs of children and youth. These grants have been used to aid in trauma-informed approaches used by violence intervention and prevention advocates.
- **Appropriates \$120 million over four years for [Mental Health Awareness Training](#).** The training prepares community members and first responders to adequately recognize and respond to individuals with mental disorders.
- **Appropriates \$150 million for FY2022 for the [National Suicide Prevention Lifeline](#).** The National Suicide Prevention Lifeline, now known as the “988 Suicide & Crisis Lifeline,” offers free support for people in hardship, including those experiencing suicidal ideation.

Implementation Recommendations:

In implementing the BSCA, Giffords recommends HHS and specifically SAMHSA take the following actions:

- **Provide priority consideration for grantees who serve populations most at risk of violence and trauma.** SAMHSA should advise NCTSN, Project AWARE, and MHAT to work in conjunction with the Office of Minority Health and DOJ’s Office for Victims of Crime to provide priority consideration for grantees who serve populations most at risk of violence and trauma, as well as to offer priority consideration to grantees that use community-based and evidence-informed violence intervention and prevention services
- **Expand eligibility of NCTSN to fund [pediatric-focused hospital-based violence intervention programs \(HVIPs\)](#).** HVIPs work to interrupt cycles of violent injury and retaliation while the victim is in recovery. HVIPs are trauma-informed at their core; culturally-competent case managers help clients access resources that promote safety and recovery, including trauma counseling, mediation, and other supportive services as

they recover from violent injury. HIVPS have mainly received federal funding through grants administered by the Department of Justice. However, much of the work to prevent and interrupt community-based violence is shifting towards public health approaches. It is therefore critical that agencies best suited to implement this approach provide funding for CVI efforts. By expanding the grantees eligible for this funding, the NCTSN will reach more at-risk individuals and address trauma, which is a significant risk factor for violence.

- **Reserve a portion of Project AWARE funding for ReCAST grants.** ReCAST grants have been used by violence intervention and prevention advocates, with this funding aiding in the training of thousands of members of the mental health workforce and community stakeholders in trauma informed approaches, including violence prevention and mental health literacy. ReCAST grants also have provided thousands of at-risk youth and their family members with high-quality trauma-informed mental health services.
- **Issue guidance from SAMHSA to offer priority consideration for discretionary grants and technical assistance to support trauma-informed efforts in high-crime, high-poverty areas.** In particular, consider focusing on communities that are seeking to address relevant impacts and root causes of violence, which include trauma and a lack of access to affordable, high-quality mental health services.
- **Ensure community-based violence intervention and prevention organizations are eligible for Mental Health Awareness Training funding.** Violence intervention and prevention professionals often serve in roles akin to first responders but with limited [support](#). It is vital that they have access to this funding to help train them on how to respond to situations with individuals suffering a mental health crisis.
- **Develop, adapt, and disseminate training on lethal means safety counseling for healthcare providers and counselors involved in implementing the National Suicide Prevention Lifeline.** America's suicide problem is a gun problem: the majority of American suicide deaths involve firearms. But these deaths are preventable. Most people attempt suicide impulsively during acute periods of mental crisis, typically using whatever means is most readily available. People are at least 40 times more likely to die if they attempt suicide with a gun instead of other common methods. Proper counseling for people at risk of suicide can reduce their access to guns and save lives.

Department of Education

America's schools have an important role to play in keeping our students safe. They offer a critical touch point for reaching young people at risk of gun violence, and by providing students a pathway to future success, education serves as one of the best protective factors against future violence involvement. Moreover, school-based intervention and prevention programs that are evidence informed and provide young people resources that help them cope with trauma

can have a significant impact on safety for vulnerable young people. The BSCA appropriates over \$2 billion to advance school-based efforts to reduce gun violence. In particular the BSCA:

- **Appropriates \$1B to expand [“Student Support and Academic Enrichment \(SSAE\) Grants.”](#)** The funding is directed towards one particular type of SSAE grant: those that support “safe and healthy students.” These grants provide flexibility for school districts to make investments in initiatives that reflect the needs of their students, including drug and violence prevention programs, mentoring and school counseling, and positive behavioral interventions and supports.
- **Appropriates \$50M to expand the [“21st Century Community Learning Centers Program.”](#)** which provides academic enrichment and youth development opportunities during non-school hours for students that attend high-poverty and low-performing schools. In particular, the BSCA requires the Department of Education to increase support for evidence-based practices that increase attendance and school engagement, both of which are critical to reducing gun violence among school-aged youth given school engagement is one of the [best protective factors](#) against crime and violence involvement.
- **Appropriates \$500M to expand the [“School-Based Mental Health Services Grant Program.”](#)** which provides competitive grants to State educational agencies to increase the number of qualified mental health service providers that provide school-based mental health services to students in Local Education Agencies (LEAs) with demonstrated need.
- **Appropriates \$500M to expand the [“Mental Health Service Professional Demonstration Grant Program.”](#)** which provides competitive grants to support innovative partnerships to train school-based mental health service providers for employment in schools. The goal of the program is to expand the pipeline of high-quality, trained providers to address the shortages of mental health service professionals in schools served by high-need LEAs.
- **Clarifies that LEAs are prohibited from using funding made available under the Every Student Succeeds Act (ESSA) to purchase firearms or provide firearms training.** While wrong, Trump administration officials previously argued there was some [ambiguity](#) regarding the use of ESEA funds for firearms or firearm training for school personnel.
- **Requires the Department of Homeland Security to establish a Federal Clearinghouse on School Safety Evidence-Based Practices in consultation with ED.** The clearinghouse will review existing grant solicitations to ensure that grants are supporting evidence-based programs in schools.

Implementation Recommendations

In implementing the BSCA, Giffords recommends the Department of Education take the following actions:

- **Incorporate ED’s October 2021 CVI letter in guidance documents for each program listed on the Department of Education’s website.** On October 25, 2021 the Department of Education issued a letter clarifying that CVI programs were an allowable use for Elementary and Secondary Education Act (ESEA) funds. This guidance should be included in the program-specific guidance documents available on the Department’s website. School-based CVI and prevention programs that are evidence-informed and provide young people resources that help them cope with trauma can have a significant impact on keeping young people safe. For example, in Chicago, [Choose to Change \("C2C"\)](#) and [Becoming A Man \("BAM"\)](#) connect students at risk of gun violence with trauma-informed therapy and supports. Randomized control-trial evaluations by the University of Chicago Crime Lab and Education Lab found both programs help keep youth safe. Participants in C2C [had](#) 48% fewer violent crime arrests and 32% fewer school misconduct incidents than their control group peers. [Results](#) from BAM showed the program reduced the number of violent crime arrests among participants by approximately 50% and increased their high school graduation rate by almost 20%.
- **Prioritize CVI in school communities where it is needed most.** ED should give priority to: 1) applicants from districts in areas disproportionately impacted by violence, since violence in the community leads to a need for these school-based services and 2) applicants that propose implementation of evidence-informed CVI strategies in coordination with other stakeholders.
- **Make funding for safe and healthy students available for schools to use on gun violence preventative measures like safe and secure gun storage notifications and ERPO implementation,** which help foster safe, healthy, supportive environments.
 - Safe and secure gun storage notifications are sent to school households to educate parents and guardians about the need for safe and secure gun storage, and methods for such storage. Safe and secure gun storage not only help to keep students safe at school, home, and in their community, but these notifications are detached from the criminal legal system and limit harm to historically marginalized students.
 - In some states, ERPO programs empower family and household members, school administrators, and employees or teachers at a secondary or postsecondary school to petition courts for a civil (non-criminal) order to temporarily suspend a student’s access to firearms before they commit violence against others or themselves. Funding should be made available to, at a minimum, support efforts to publicize and train relevant stakeholder groups on ERPOs, including those eligible to petition.

- **Issue guidance and amend regulations clarifying for state and local education agencies that firearms purchases and training are a prohibited use of all Education Department grant funds.** Since the BSCA clarifies that state and local education agencies may not use ESEA funding for firearms or firearm training, the Department of Education should clearly communicate this change through guidance and regulations for all other funding. For example, issue a rule to amend the Education Department General Administrative Regulations (EDGAR) to clarify that no grant funding from the the Department of Education may be used to purchase firearms or firearm training.

Department of Homeland Security

Under the explicit terms of the “Luke and Alex School Safety Act of 2022”, enacted as part of the BSCA, the Secretary of Homeland Security must work with the Attorney General and the Secretaries of Education and Health and Human Services to establish a Federal Clearinghouse on School Safety Best Practices—a federal resource including a website with best practices and recommendations on school safety, and evidence/research that support the best practices. This website already exists in nascent form at SchoolSafety.gov.

The Secretary of Homeland Security must also work with the Attorney General, and the Secretaries of Education and Health and Human Services to:

- Consult with a variety of stakeholders to ensure that the Clearinghouse includes evidence-informed school safety programs and the research rationale for those programs,
- Conduct regular assessments of federal support for school safety programs, and identify gaps in federal resources available for school safety programs,
- Establish an external advisory board to work with states on the implementation of school safety practices, and propose additional recommendations for practices for inclusion in the Clearinghouse.

The BSCA also requires the Secretaries of Homeland Security, Education, Health and Human Services, and the Attorney General to provide written notice of the Clearinghouse to their state counterparts.

Implementation Recommendations

We recommend the Clearinghouse focus on the programs mentioned above that actually keep students safe, specifically evidence-informed programs that provide young people supports and help them cope with trauma.

Conclusion

Gun violence is a problem of epic proportions. The enactment of the first major gun safety law in nearly 30 years presents an enormous opportunity to reverse the devastating trend of rising

homicides and gun injuries—but only if that law is implemented effectively by the executive branch. We hope this memo serves as a useful roadmap to ensure the Bipartisan Safer Communities Act has the greatest impact possible.